

[REDACTED]

CERTIFIED MAIL

[REDACTED]

MAR 30 1994

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(4) of the Internal Revenue Code and have determined that you do not qualify for tax exemption under that section. Our reasons for this conclusion and the facts on which it is based are explained below.

The information submitted indicates that your organization was incorporated [REDACTED], under the laws of the State of [REDACTED]. Your articles of incorporation state at article Third "The purpose of the corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of [REDACTED]. This document further provides that this corporation shall be a non-profit corporation."

The Constitution and By-laws adopted by your organization further state that the objectives and aims of your organization are "to provide a medium through which the members of our corporation can improve and promote the general welfare of the community through joint action arrived at by free and open discussion." This document also states that your organization expects to welcome newcomers and promote an atmosphere of friendliness and community spirit, engage in programs that promote civic improvement and be responsible for snow removal and maintaining private open spaces.

You also indicate in your application that your organization has organized a neighborhood watch in cooperation with the local county police and sponsor an annual Easter egg hunt, picnics and a Christmas party for the members of the development.

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname			[REDACTED]				
Date			3/30/94				

[REDACTED]

In your application, you also indicate that two parcels of land have been left as open space by the developer of the association. You state in your application that this land "is not to be used by individuals who do not own or live in the community. We maintain these parcels of land through our annual fees." You also indicate in your application that the general public does not have access to areas within your development such as roadways, sidewalks, street light or the private open space within the development.

Income to your organization comes primarily from dues. Expenses have been shown for bank charges, landscape fees, postage, snow removal, supplies, postage and miscellaneous.

Section 501(c)(4) of the Code provides for the recognition of civic leagues, social welfare organizations, or other organizations, not organized for profit, but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the Federal Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated for the purpose of bringing about civic betterment and social improvements.

Revenue Ruling 74-99, published in Cumulative Bulletin 1974-1, on page 131, modified Revenue Ruling 72-102 by stating guidelines under which a homeowners' association could qualify for exemption under section 501(c)(4) of the Code. One guideline is that a homeowners' association must serve a community which bears a reasonable recognizable relationship to an area identified as governmental in order to qualify under section 501(c)(4).

Revenue Ruling 74-99 states that "...Revenue Ruling 72-102 was intended only to approve ownership and maintenance by homeowners' associations of such areas as roadways and parklands, sidewalks and street lights, access to or for the use and enjoyment of which is extended to members of the general public, as distinguished from controlled use or access restricted to the members of the homeowners' associations.

Examples of common areas are roads, sidewalks, street lights and parklands. You restrict the use of your common areas to your members who own property in the development. Access to or the use and enjoyment of the common areas is not extended to the general public. Your common areas are for the private use of the members of your organization.

[REDACTED]

Based on the information submitted, we have determined that your organization is operating in essentially the same manner as the organization described in Revenue Ruling 74-99 and therefore we hold that you are primarily organized and operated to provide services for the personal benefit of your members and not primarily for promoting in some way the common good and general welfare of the community. Any benefits to the community are not sufficient to meet the requirement of the regulations that the organization be operated primarily for the common good and general welfare of the people of the community.

Therefore, we have concluded that you do not qualify for exemption from Federal income tax as an organization described in section 501(c)(4) of the Internal Revenue Code. In accordance with this determination, you are required to file Federal income tax returns on Form 1120.

Your attention is called to section 528 of the Internal Revenue Code which was added by the Tax Reform Act of 1976. This section provides that, in certain circumstances, a non-exempt homeowners association may elect not to be taxed on its "exempt function income" which includes membership dues, fees or assessments from owners of real property. The election is made by filing Form 1120H. If you determine that your organization qualifies under section 528, you may find it beneficial to make this election.

If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or, if you request, at any mutually convenient district office. If you will be represented by someone who is not one of your principal officers, that person will need to file a power of attorney or tax information authorization with us.

If you don't appeal this determination within 30 days from the date of this letter, as explained in Publication 892, this letter will become our final determination on this matter.

[REDACTED]

Appeals submitted which do not contain all the documentation required by Publication 892 will be returned for completion.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

[REDACTED]

Paul M. Harrington
District Director

Enclosure: Publication 892